
SENATE BILL 5375

State of Washington

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By Senators Bauer, Wojahn, Barr, Oke, Rinehart, von Reichbauer and Winsley; by request of Legislative Budget Committee

Read first time 01/26/93. Referred to Committee on Government Operations.

1 AN ACT Relating to personal service contracts; amending RCW
2 39.29.003 and 39.29.006; and adding new sections to chapter 39.29 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 39.29.003 and 1987 c 414 s 1 are each amended to read
5 as follows:

6 It is the intent of this chapter to establish a policy of open
7 competition for all personal service contracts and subcontracts to
8 personal service contracts entered into by state agencies, unless
9 specifically exempted under this chapter. It is further the intent to
10 provide for legislative and executive review of all personal service
11 contracts negotiated without an open competitive process.

12 **Sec. 2.** RCW 39.29.006 and 1987 c 414 s 2 are each amended to read
13 as follows:

14 As used in this chapter:

15 (1) "Agency" means any state office or activity of the executive
16 and judicial branches of state government, including state agencies,
17 departments, offices, divisions, boards, commissions, and educational,
18 correctional, and other types of institutions.

1 (2) "Client services" means services provided directly to agency
2 clients including, but not limited to, medical and dental services,
3 employment and training programs, residential care, and subsidized
4 housing.

5 (3) "Competitive solicitation" means a documented formal process
6 providing an equal and open opportunity to qualified parties and
7 culminating in a selection based on criteria which may include such
8 factors as the consultant's fees or costs, ability, capacity,
9 experience, reputation, responsiveness to time limitations,
10 responsiveness to solicitation requirements, quality of previous
11 performance, and compliance with statutes and rules relating to
12 contracts or services.

13 (4) "Consultant" means an independent individual or firm
14 contracting with an agency to perform a service or render an opinion or
15 recommendation according to the consultant's methods and without being
16 subject to the control of the agency except as to the result of the
17 work. The agency monitors progress under the contract and authorizes
18 payment.

19 (5) "Emergency" means a set of unforeseen circumstances beyond the
20 control of the agency that either:

21 (a) Present a real, immediate threat to the proper performance of
22 essential functions; or

23 (b) May result in material loss or damage to property, bodily
24 injury, or loss of life if immediate action is not taken.

25 (6) "Evidence of competition" means documentation demonstrating
26 that the agency has solicited responses from multiple firms in
27 selecting a consultant.

28 (7) "Personal service" means professional or technical expertise
29 provided by a consultant to accomplish a specific study, project, task,
30 or other work statement. This term does not include purchased services
31 as defined under subsection (9) of this section. This term does
32 include client services.

33 (8) "Personal service contract" means an agreement, or any
34 amendment thereto, with a consultant for the rendering of personal
35 services to the state which is consistent with RCW 41.06.380.

36 (9) "Purchased services" means services provided by a vendor to
37 accomplish routine, continuing and necessary functions. This term
38 includes, but is not limited to, services acquired under RCW 43.19.190
39 or 43.105.041 for equipment maintenance and repair; operation of a

1 physical plant; security; computer hardware and software maintenance;
2 data entry; key punch services; and computer time-sharing, contract
3 programming, and analysis.

4 (10) "Sole source" means a consultant providing professional or
5 technical expertise of such a unique nature that the consultant is
6 clearly and justifiably the only practicable source to provide the
7 service. The justification shall be based on either the uniqueness of
8 the service or sole availability at the location required.

9 (11) "Subcontract" means a contract assigning some of the work of
10 a contract to a third party.

11 NEW SECTION. Sec. 3. A new section is added to chapter 39.29 RCW
12 to read as follows:

13 (1) Substantial changes in either the scope of work specified in
14 the contract or in the scope of work specified in the formal
15 solicitation document must generally be awarded as new contracts.
16 Substantial changes executed by contract amendments must be submitted
17 to the office of financial management and the legislative budget
18 committee, and are subject to approval by the office of financial
19 management.

20 (2) An amendment or amendments to personal service contracts, if
21 the value of the amendment or amendments, whether singly or
22 cumulatively, exceeds fifty percent of the value of the original
23 contract must be provided to the office of financial management and the
24 legislative budget committee.

25 (3) The office of financial management shall approve amendments
26 provided to it under this section before the amendments become binding
27 and before services may be performed under the amendments.

28 (4) The amendments must be filed with the office of financial
29 management and made available for public inspection at least ten
30 working days prior to the proposed starting date of services under the
31 amendments.

32 (5) The office of financial management shall approve amendments
33 provided to it under this section only if they meet the criteria for
34 approval of the amendments established by the director of the office of
35 financial management.

36 NEW SECTION. Sec. 4. A new section is added to chapter 39.29 RCW
37 to read as follows:

1 If subcontracts and subcontractors are specified in the
2 contractor's response to a competitive solicitation, this constitutes
3 a competitive solicitation of subcontract services. If subcontracts
4 are authorized, but subcontractors are not specifically identified in
5 a contractor's response to a competitive solicitation and the
6 contractor later desires to issue subcontracts, the subcontracts must
7 comply with the competitive solicitation requirements of this chapter,
8 and selection of subcontractors is subject to prior agency approval.

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